

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
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In re:

Chapter 13
Case No.: 8:18-bk-04672-CPM

**PABLO RAFAEL ORTIZ
JOHANNA TERESA ORTIZ**

Debtors.

**OBJECTION TO CONFIRMATION OF
DEBTORS' PROPOSED CHAPTER 13 PLAN**

Secured Creditor, **BSI FINANCIAL SERVICES, AS SERVICING AGENT FOR HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM X TRUST** (“BSI Financial Services” or “Secured Creditor”), objects to confirmation of the Debtors’ proposed Chapter 13 Plan and states as follows:

1. On June 4, 2018, the Debtors filed its Voluntary Petition under Chapter 13 of the United States Bankruptcy Code [D.E. 1] and the proposed Chapter 13 Plan [D.E. 2] (the “Plan”).
2. Secured Creditor is the owner and holder of that certain promissory note and that mortgage recorded as Instrument #2006577290, in OR Book 17242, Page(s) 341 - 349, in the Official Records of Hillsborough County, Florida on the property located at *10105 Forest North Court, Tampa, FL 33615* (the “Property”).
3. The Plan indicates an intention to pursue Mortgage Modification Mediation (“MMM”) as to the Property, however, to date, the Debtors have not yet filed a Motion for Referral to MMM. The Debtors cannot modify the subject loan documents solely through plan treatment. Pursuant to 11 U.S.C. § 1322(b)(2), the terms of the original Note and Mortgage shall remain in full force and effect unless and until there has been a judicial determination and

approval of a loan modification offered after completion of a loan modification review, if the MMM motion is appropriately and timely filed.

4. The deadline for creditors to file a claim in this case is August 13, 2018.

5. Secured Creditor anticipates timely filing its proof of claim which will reflect an estimated total secured claim amount of \$143,100.78, an estimated pre-petition arrearage amount of \$37,926.74, and an on-going post-petition mortgage payment amount of \$968.36.

6. Secured Creditor asserts that the Plan fails to indicate to correct on-going post-petition payment amount as well as any proposed amount to be paid towards the outstanding pre-petition arrearages due and owing to Secured Creditor when in fact the current pre-petition arrearage amount due is \$37,926.74. As such, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed.

7. Secured Creditor objects to any proposed plan which proposes to pay it anything less than the total claim amount of \$143,100.78, anything less than the contractual on-going post-petition payment amount of \$968.36, as well as, anything less than \$37,926.74 as the pre-petition arrearage amount over the life of the plan.

8. Secured Creditor retains the right to inquire further into the Debtors' eligibility for loss mitigation options.

9. Furthermore, if mediation is conducted in this case and no agreement is reached between the parties, Secured Creditor's claim should be paid in full or the property surrendered to Secured Creditor and the automatic stay terminated *in rem* with respect to the collateral real property.

10. Debtor's plan should also account for future tax and insurance obligations.

11. Secured Creditor reserves the right to supplement this Objection.

WHEREFORE, Secured Creditor respectfully requests that this Honorable Court sustain its Objection to Confirmation, deny confirmation of the Debtor's proposed Amended Chapter 13 Plan, and for any such other relief that the Court deems just and proper.

Dated this 10th day of July, 2018.

Respectfully submitted,

GHIDOTTI | BERGER, LLP

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By: /s/ Chase A. Berger

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CERTIFICATE PURSUANT TO LOCAL RULE 9011-4(B)(1)

I certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court as set forth in Local Rule 2090-1(A).

By: /s/ Chase A. Berger

Chase A. Berger, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 10, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

I also certify that the foregoing document is being served this day, either via transmission of Notice of Electronic Filing generated by CM/ECF or by first class U.S. Mail, upon:

Debtor

Pablo Rafael Ortiz
10105 Forest North Court
Tampa, FL 33615

Joint Debtor

Johanna Teresa Ortiz
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Debtors' Counsel

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Trustee

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U.S. Trustee

United States Trustee - TPA7/13, 7
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602

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By: /s/ Chase A. Berger
Chase A. Berger, Esq.